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TO: Appropriations Committee
c/o Co-Chairs Toni Nathaniel Harp and Toni E. Walker
Room 2700, Legislative Office Building
Hartford, CT 06106

RE: Testimony in Opposition to House Bills 6353 and 6354.

My name is Sean K. McElligott. I am a member of Connecticut's Freedom of Information Commission (hereinafter "FOIC"). I have been a member of the FOIC since November 23, 2011. I am opposed to HB 6353 and HB 6354 and I am writing to urge the Committee against the passage of these bills.

The FOIC's mission is to administer and enforce the provisions of the Connecticut Freedom of Information Act (hereinafter "FOIA"), and to thereby ensure citizen access to the records and meetings of public agencies in the State of Connecticut. As President Obama has said, "[a] democracy requires accountability, and accountability requires transparency. In our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government." The current drafts of House Bills 6353 and 6354 undermine Connecticut's longstanding commitment to open government by eroding both the independence and the efficacy of our FOIC.

As presently written, section 1-205a of the General Statutes prohibits the Governor from reducing the FOIC's budget requests; instead, the FOIC's budget is submitted directly to the legislature. This is a critical provision as it gives the FOIC budgetary independence from the governmental body that it is tasked with overseeing. House Bill 6353 makes the FOIC beholden to the executive by giving the executive the ability to reduce its allotment requisitions and allotments in force. House Bill 6354 goes even further in eviscerating the independence of the FOIC. Under HB 6354 the head of the Office of Governmental Accountability (hereinafter "OGA") would become a gubernatorial appointee, answering directly to the Governor and serving at his or her pleasure.

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In addition, HB 6354 adds an unnecessary layer of bureaucracy by a creating a new legal and enforcement division within the OGA that will investigate all complaints, provide advisory opinions and staff assistance to the FOIC, State Elections Enforcement Commission, Citizen's Ethics Advisory Board, Board of Firearms Permit Examiners and Judicial Review Council. There are at least two major problems with this proposal. First, the mission of this new division is impossibly broad. The FOIC depends on the specialized knowledge and experience of its legal staff to meet the needs of Connecticut citizens. Merging the FOIC's staff into a larger division will seriously dilute the knowledge base and interfere with our ability to enforce the FOIA. Second, consolidation of staff attorneys and legal units creates a potential conflict of interest. The FOIC has jurisdiction over all of the OGA divisions; if those divisions were merged, the FOIC could be asked to adjudicate complaints against members of its own agency. Even if this could be done fairly, the public's negative perception of such a procedure would compromise the legitimacy of the FOIC.

In conclusion, I believe that HB 6353 and HB 6354 are bad policy. Connecticut has long been a leader in the march towards an open government and it should strive to protect the gains that have been made thus far. The proposals in these bills reduce government transparency and accountability and will hurt the citizens of our state.

I respectfully urge this Commission against passage of HB 6353 and HB 6354.

Sincerely,



Sean K. McElligott, Esq.